

**ASX/Media Announcement**

## **Nucleonics petition denied in US Court**

5 October 2007, Melbourne, Australia: Benitec Limited (ASX:BLT) has been advised that the US Federal Circuit has posted its decision regarding Nucleonics' petition for rehearing and rehearing en Banc - Benitec Australia Ltd. v Nucleonics, Inc on the Federal Circuit website. The petition has been denied.

"We are delighted with the ruling in this case" said Benitec Ltd CEO, Sue MacLeman.

This decision to deny a Petition for Rehearing and Rehearing En Banc of Benitec Australia Ltd. v. Nucleonics, Inc. was issued today. In doing so, the Federal Circuit again found that the District Court lacks jurisdiction for declaratory judgment counterclaims of invalidity and unenforceability in the US District Court of Delaware action. Nucleonics filed the petitions asserting that both the District Court and the Federal Circuit misapplied the law for declaratory judgment jurisdiction. A poll of all the circuit judges was conducted regarding the petition for rehearing en banc; the poll failed and the petition was denied. Benitec believes that the Federal Circuit decision correctly followed recent Supreme Court decisions clarifying jurisdiction for declaratory judgment under Article III, and denial of the petition for rehearing is appropriate. Nucleonics has the option of appealing the case to the US Supreme Court.

"This litigation has been ongoing since 2004 and we are pleased that with this further confirmation from a US court we can now fully focus our attention, efforts, and resources toward developing RNAi therapeutics", Ms MacLeman added.

Benitec's patented technology, known as DNA directed RNA interference (ddRNAi), employs DNA constructs to induce RNA interference (RNAi) in cells. RNAi is a natural cellular mechanism that selectively knocks down or silences a targeted gene by destroying messenger RNA (mRNA). It is triggered by double stranded RNA, where one strand is identical to the target mRNA. Benitec's DNA directed RNAi (ddRNAi) technology involves inserting a DNA construct into a cell to trigger production of double stranded RNA, resulting in the destruction of the target mRNA and selectively silencing or knocking down the expression of the target gene.

The ddRNAi approach has several potential advantages when compared with alternative gene silencing technologies under development, such as antisense RNA, and synthetic and chemically modified siRNA. These advantages include more versatile delivery options, simultaneous multiple gene disabling, the ability to silence genes in whole organisms (transgenic ddRNAi), and the ability to control the expression and timing of gene silencing.

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**About Benitec**

Benitec is an Australian biotechnology company focused on licensing its extensive intellectual property portfolio and developing therapeutics to treat serious diseases using its proprietary ddRNAi technology. Its current therapeutic program is focused on Human Immunodeficiency Virus (HIV). For additional information, please visit [www.benitec.com](http://www.benitec.com).